



Flathead Conservation District
133 Interstate Lane, Kalispell, MT 59901
www.flatheadcd.org 406-752-4220

CALL TO ORDER & ATTENDANCE

Chair Ronald Buentemeier called the June 11, 2018, 310-Stream Permit meeting to order at 7:00 P.M. in the conference room.

Board members present:

Ronald Buentemeier, Chair; Dean Sirucek, Secretary/Treasurer; Lori Curtis, Supervisor; John Ellis, Supervisor; Mark Siderius, Supervisor; Verdell Jackson, Supervisor; being a quorum of the Board.

Board members absent: Pete Woll, Vice Chair. Absence is excused.

Also in attendance were: Valerie Kurth and Hailey Graf, FCD staff; Leo Rosenthal and Kenny Breidinger, MFWP; Zach Cook, Whitefish Lake Institute; Jackie Sheppard; Ken Margett; Lynn Noble; Robert Dills; Robert Brown; Dan O'Neill; Kurt West; William Boyd; Tim Calaway; Sue Evan.

MINUTES

Lori Curtis motioned "to approve the minutes of the May 28, 2018, business meeting as presented." Verdell Jackson seconded. Motion carried unanimously.

CORRESPONDENCE

1. Join the Rangeland & Pasture Invasive Grass Tour, June 26, 2018, to learn about *Ventanata duiba*, an exotic annual grass. Contact Gallatin County Weed District by June 19th, 406-582-3265, weedistrict@gallatin.mt.gov
2. Email: National Association of Conservation Districts (NACD) publications: *NACD News*, *NACD Forestry Notes*, *NACD eResource*, *The Resource*, *Conservation Clips*, www.nacdnet.org
3. Email: Flathead Lakers & Flathead Land Trust announce the Flathead Lake Boat Tour, Thursday, June 28, 6-9 P.M. Cost \$50 each. Contact Flathead Land Trust 406-752-8293, www.flatheadlandtrust.org
4. Email: Little Beaver Conservation District and NRCS announce *Connecting Soil Health with Productivity*, June 15, Plevna Community Center, Plevna, MT, 8:30 A.M. – 2:30 P.M., \$10 per person. Contact Little Beaver CD by June 5, 406-778-2217, Ext. 111, LittleBeaverCD@macdnet.org
5. Email: Xerces Society for Invertebrate Conservation workshop *Farming with Beneficial Insects* June 19th in Charlo, MT. Cost \$25, space is limited. Pre-registration is required. <https://tinyurl.com/montanacbs>



6. Email: Montana Association of Conservation Districts (MACD) and SWCDM publication *The Montana Conservationist* <http://macdnet.org>
7. Email: Montana Watershed Coordination Council publication *Watershed News*
8. Email: Whitefish Planning Board meeting, Thursday, June 21, 2018, 6:00 P.M., Whitefish City Council Chambers, 418 E Second Street, Whitefish.
www.cityofwhitefish.org
9. Email: DNRC is promoting the book *Montana Women From the Ground Up*. See the following link for outlets.
<http://dnrc.mt.gov/divisions/cardd/conservation-districts/oral-history-project>
The following book promotion events are happening in June:
June 9, Columbus/June 16, Joliet/June 27 Cut Bank
For more information contact Linda Brander 406-444-0520 LLbrander@mt.gov
10. Email: Petroleum County CD (PCCD) newsletter *PCCD Dirt*
www.petroleumcd.com or contact 406-429-6646 Ext 104
11. Email: Rosebud & Big Horn CD's newsletter *Conservation Connection*
www.rosebudcd.com or contact 406-346-7333 Ext. 101
12. Whitefish Lake Institute quarterly newsletter www.whitefishlake.org 406-862-4327
13. Thank-you's from college scholarship recipients Mara Lorch, Hanna Brann and Molly Adams-Hyde.
14. Email: Ravalli County Conservation Mud Run, June 16, Ravalli County Airport, Hamilton, MT. Register by calling 777-5842.
15. Email: For DNRC 223, Mini-Education and District Development grant applications go to: <http://dnrc.mt.gov/grants-and-loans>. Contact Linda Brander, DNRC Resource Specialist, 406-444-0520
16. Corrected mailing address from Forest Service for objections or attachments to the *Draft Decision Notice of no Significant Impact and Environmental Assessment for the Taylor Hellroaring Project*. Objection Reviewing Officer, USDA Forest Service, Northern Region, 26 Fort Missoula Road, Missoula, MT 59807, Fax 406-329-3411 or Email appeals-northern-regional-office@fs.fed.us

FINANCIAL

The following bills were reviewed:

1. Byte Savvy \$145.00
2. David Sibert \$1,198.03
3. Flathead Beacon \$528.00
4. Helena Flats School Dist. 15 \$3,704.00
5. Montana State Fund \$272.74
6. Montana State University – Bozeman \$2,000.00
7. Mountain States Leasing – Kalispell \$1,545.56
8. Safeguard \$180.68
9. Whitefish Lake Institute \$1,000.00

Mark Siderius motioned “to approve the bills as presented.” Verdell Jackson seconded. Motion carried unanimously.



PUBLIC COMMENT PERIOD

No one was here for public comment.

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Boyd, FL2017053C, Nine Mile Creek, complaint: Ronald Buentemeier reported that water is flowing freely at this time, and the two landowners, Boyd and Pfeifer, told him that the outlet and the creek look similar to the past. Kenny Breidinger added that there was an old dam at the outlet and some old beaver activity, but nothing looked recent. Dean Sirucek added that very little disturbance is required in the glacial outwash substrate to change the hydraulics of the system. Ronald Buentemeier motioned “to send a letter to the complainant that no violation was observed.” Dean Sirucek seconded. Motion carried unanimously.

Brosten, FL2018015, Flathead River, bank stabilization/dike: Dean Sirucek motioned “to table the application until the next meeting.” John Ellis seconded. Motion carried unanimously.

Brown, FL2018024, Flathead River, bank stabilization: An onsite inspection was set for Thursday, June 21, 2018, 9:30 A.M. at the site.

Gregoroff, FL2018025, Swan River, salvage cut logs: Leo Rosenthal explained that this project was a salvage log operation that we have permitted several times in the past. He recommended using the same stipulations as in previous permits: float bags be fully suspended; woody debris jams left alone; and any impounded logs held in place. John Ellis motioned “to approve the application with the same stipulations as previous permits.” Lori Curtis seconded. Motion carried unanimously.

Jacobson, FL2018023C, Whale Creek, complaint: An onsite inspection was set for Friday, June 22, 2018, 10:00 A.M. at the site.

Margett, FL2018020, Big Lost Creek, culvert: Verdell Jackson explained that the existing culvert is insufficient to carry the flow. The applicant wants to add another culvert of the same size next to the existing one. Kenny Breidinger added that the current culvert is also elevated, undersized and flat, so it is creating an impoundment, which has led the creek to breach its bank and flow over the driveway. The existing pipe would act as the overflow pipe and the new one would be set below it at the grade of the creek. Verdell reviewed the considerations on the team member report. He added that the fill should be compacted between the pipes, rip rap should stabilize the edges, and work should be done at low flow. Leo Rosenthal asked about the flow and debris in Big Lost Creek because side-by-side culverts are not preferred due to the potential for blockages. He asked why they recommended this option. Kenny responded that it was mainly cost. The applicant responded that there is not that much debris in the creek, and it does not build up in front of the existing pipe. Verdell Jackson motioned “to approve the application with modifications per the Team Member Report.” Mark Siderius seconded. Motion carried unanimously.



Mayard, FL2018021, Stillwater River, bank stabilization: Verdel Jackson explained the project and showed photos from the onsite inspection, where the bank is sloughing off, approximately six feet from the house. Ronald Buentemeier asked the contractor if he had found a source of water underground. The contractor said he had not, and explained that the bottom bench had pushed out about 10 feet and then the bank slid out and fell down. He stated there may have been some seepage at the south end, but it dried up before the water came up. Kenny Breidinger said runoff from the roof was piped around and away from the house. Dean said it looked to be saturated from the photo and this was typical of that type of soil, especially with an irrigated lawn above. Ronald stated there are several banks in that area have done exactly the same thing. In similar situations, a leaky irrigation system was at fault. The contractor did not think an irrigation system was at fault. Dean asked if he was going to put filter cloth underneath the rip rap. The contractor said it would be used, at least on the part being re-stabilized. Verdel reviewed the considerations on the team member report and a modification to include that other types of woody shrubs be used. Kenny explained the applicant had proposed willow plantings, and they had suggested using other woody shrubs in addition to willow. Ronald noted that red osier dogwood has a good root system.

Verdel Jackson motioned “to approve the application with modifications per the Team Member Report.” Lori Curtis seconded.

Dean voiced concern about not using filter fabric with the type of soils on the bank. Ronald said that the filter cloth would not prevent the slumping. The contractor said the cloth often acts as a surface for the bank to slide against. Mark Siderius explained that there are drawbacks either way: if you do not use fabric, then you have to use 30-50% more rock material, and if you do use it, then you eventually get a full bank slump instead of a partial one and it is harder to get vegetation established. Lori Curtis noted you get a more robust revegetation without the fabric, which is a better long term solution. Leo Rosenthal asked if the higher rock weight without fabric could create a repeat scenario. Mark said yes, and added that vegetation will provide stabilization and natural filtration. It is a difficult decision to weigh. Motion carried with one nay vote.

Motley, FL2018022, Mill Creek, culvert: John Ellis motioned “to table the application until the next meeting.” Dean Sirucek seconded. Motion carried unanimously.

Noble, FL2018019, E. Spring Creek, debris removal: Ronald Buentemeier explained that this project was to remove debris from the creek. The stream is clogged from willow branches and a tree is falling in. The material will be removed and taken off site. Kenny Breidinger concurred that the stream is holding a lot of debris and inhibiting boat passage. Ronald Buentemeier motioned “to approve the application as submitted.” Dean Sirucek seconded. Motion carried unanimously.

Peura, FL2017054C, Whale Creek, complaint: An onsite inspection was set for Friday, June 22, 2018, 10:00 A.M. at the site.

Pheifer Trust, FL2017057C, Nine Mile Creek, complaint: Ronald Buentemeier reported that water is flowing freely at this time, and the two landowners, Boyd and Pfeifer, told him that



the outlet and the creek look similar to the past. Kenny Breidinger added that there was an old dam at the outlet and some old beaver activity, but nothing looked recent. Dean Sirucek added that very little disturbance is required in the glacial outwash substrate to change the hydraulics of the system. Dean Sirucek motioned “this is not considered a violation.” John Ellis seconded. Motion carried unanimously.

Sheppard, FL2018018, Unnamed, driveway/culvert: Verdell Jackson showed photos from the onsite inspection and explained the project. He said that the current driveway, which has a 5-foot squash pipe, is partially on the neighboring property. The neighbor will no longer allow the applicant to use their portion of the driveway. A new driveway will be built next to the neighbor’s and the culvert will be sleeved and extended approximately 20 feet. The creek meanders significantly and the pipe will be turned slightly. Verdell explained that rock would be placed on both sides of the culvert, as described in the amendment submitted 6/11/2018. Verdell reviewed the considerations in the team member report. Kenny Breidinger stated that this project is not ideal and redundant because the two culverts will be so close, but it does confine the impacts to a localized area. Kenny added the channel will require stabilization, which they will do. Verdell Jackson motioned “to approve the application with the amendment submitted 6/11/2018.” Mark Siderius seconded. Motion carried unanimously.

Smith, FL2017062, Flathead River, driveway: Mark Siderius motioned “to table the application.” John Ellis seconded. Motion carried unanimously.

Stalowy, FL2016050, Bear Creek, litigation: Ronald Buentemeier motioned “to table until more information is given.” John Ellis seconded. Motion carried unanimously.

Steinberg, FL2018017, Flathead River, slope bank/steps/retaining wall: Dean Sirucek explained that this project is similar to existing projects on neighboring landowners’ properties. The plan is to make a recreational access site and eventually add a dock. Dean recommended to approve the application with the following modifications: the rock walls be set at 1.5:1 slope (which the district would require for rip rap) and install a French drain between the rip rap and concrete pavers so that any overland flow would be directed into the soil and not the river. He noted FCD’s adopted rules state that decks must be constructed on existing terrain; however, this project would excavate an area for it and excavation would be above the high water line.

Kenny Breidinger stated that he thinks this project differs substantially from other projects in the area, and it violates several of FCD’s adopted rules: the use of retaining walls solely for landscaping is prohibited. This site does not have an erosion problem and this project is landscaping of the bank. He also mentioned an issue with using cut stone. The applicant, Tim Calaway, responded that the rock comes from a local quarry, and that he is proposing filter cloth and drain rock behind the project.

Kenny stated again there is not an erosion problem at the site, and continued to explain the issue with the cut rock. When building a retaining wall, the surface should not be smooth because when it is rough, it can dissipate some of the wave energy. Church Slough does not have a strong current, but it has a problem with boat wakes. The applicant responded that



only one row of block would touch the water, everything else is above high water, but he could place rough rock on that row.

Dean noted if the landowner plans to apply for a floating dock permit next year, the dock would have to abut to the surface. The applicant stated it would be a floating dock, and would not touch the surface, but be anchored to it with a walkway. Dean went on to ask if the rock would affect the future dock design. The applicant stated it may be more difficult, but it could be done.

Ronald Buentemeier asked for clarification on the placement and slope of the rock. Lori Curtis asked Kenny about his other concerns regarding the adopted rules. Kenny continued by pointing out that the 24'x24' concrete pad should be considered a deck and that it will not be built on existing terrain or use the recommended materials as per the adopted rules under Decks/Walkways/Stairways. If the applicant excavates 6-7 feet down to 1 foot above mean high water, then this is not the existing terrain. The existing terrain is where the top of the streambank is right now. Dean Sirucek said the existing rules do not fit this situation very well. In addition, because it is a slough, FCD permitted a similar project in the same area.

Applicant said it is impossible to access the water without building some steps. Ronald was concerned about the drawings provided because he did not see a slope specified. Dean stated that the 1.5:1 slope was his modification. Ronald also asked if the concrete pad at the bottom would be stable with freezing and thawing. Dean did not think there would be much frost heave with a gravel layer and filter cloth on sandy soil. Ronald asked the applicant about the purpose of the concrete slab, to which the applicant responded it would be recreational. Ronald stated most applicants would use some kind of flat rock or pavers. The applicant stated he could use flat rock or pavers instead. Ronald stated in most years the water will be over the top of that concrete/rock. Kenny agreed, and explained that this year the water level was one foot above mean high water, meaning that this year, and potentially in the future, this project would have been under water. The neighboring properties had experienced flooding on permitted projects.

Lori asked if there were any other issues regarding the adopted rules. Kenny stated Dredge/Filling/Swim Beach Creation states the streambank must not be undercut or damaged. Streambank vegetation must not be damaged. He was not sure if excavation of the streambank would fit under these as these refer to dredging, and explained that the rules do not have recommendations for this. Mark Siderius provided some history about the neighboring projects (Carver, Lincoln, and County boat access), which had been through arbitration and a lawsuit, and noted that the adopted rules were different at that time. Kenny stated he did not believe this project would be permitted under lakeshore guidelines.

Dean reviewed the considerations in the team member report. Dean Sirucek motioned "to approve the application with four modifications: 1) retaining wall to be constructed at approximately on a 1.5:1 back slope to approximately 6 feet in height, 2) a small French drain to be constructed between the pad and the walk on the streambank, 3) stone pavers instead of a concrete pad at the site, and 4) rocks facing the slough would be angular in shape." Mark Siderius seconded.



Kenny noted that before coming here he worked with several other conservation districts to administer 310 law. Stream access was provided by a small trail or steps on the streambank. This is the Natural Streambed and Land Preservation Act and the land part of the Act is the streambank, and we are supposed to protect it in its natural form. If they are not cut rock, they are still cubular-shaped rock and not the natural landform. The project is a large excavation of the bank, with huge retaining walls surrounding a 24'x24' concrete pad or modified pavers. It is a large impermeable surface on the streambank, and it clearly violates the adopted rules. Access could be provided in a way that does not violate the adopted rules.

Ronald asked how this project compared to the Carver project. Dean said the two projects would be similar, but Carver's and Iverson's used more rock. The applicant added that the only difference between his and Carver's and Iverson's is that they used round rock and he wanted to use angular rock. John Ellis asked Kenny what rules would be violated. Discussion ensued about the retaining wall, existing terrain, and dredging as they apply to the adopted rules. Ronald pointed out that when the Carver project went to arbitration, the district lost. He believes that the applicant is willing to work with the district to make it better.

Leo Rosenthal stated that he has heard a lot about precedence recently, especially in relation to projects that were permitted under previous versions of our adopted rules. Precedence can work both ways – it does not have to be perpetuated. Just because something was permitted in a case that we lost does not give precedence to approve a new project. This is just the opposite of preserving the banks of the river. There are many ways that access could be provided without excavating the banks. Leo agreed with Kenny that this project was a violation of the adopted rules. Verdell Jackson stated that he was not sure he could vote on this because the presentation does not give him the information he needs. The other applicant argued that the district approved all these other projects, Carver, Lincoln, and Iverson. Kenny said he could agree to one course of stones at about two feet. Ronald asked if it would be better for the applicants to revise their application to reflect the discussion tonight. The applicant stated that he was fine with all the recommendations, and would prefer not to put it off for another month. The applicant went to another room to draw his modifications. Applicant returned to the room and explained his new drawing to the board. Mark suggested Kenny and Dean write a new Team Member Report that would reflect the new drawing. Dean Sirucek rescinded his motion.

Dean Sirucek motioned “to approve the application per the drawing provided on June 11, 2018, and with modifications from Kenny's and Dean's team member report to be delivered.” Lori Curtis seconded. Motion carried unanimously

Wilson, FL2018026, Spruce Creek, culvert: An onsite inspection was set for Friday, June 22, 2018, 11:30 A.M. at the site.



NEW BUSINESS - None

MATTERS OF THE BOARD/STAFF

Reminder: FY 2018/2019 Budget Meeting, Wednesday, July 18, 9:00 A.M.

The next business meeting is scheduled for Monday, June 25, 2018, 7:00 P.M. in the conference room of the USDA building at 133 Interstate Lane, Kalispell.

Adjournment: motioned "Mark Siderius motioned "to adjourn." John Ellis seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:23 P.M.

Submitted By: Valerie Kurth, Ph.D., Resource Conservationist
Ginger Kauffman, Administrator

Minutes approved by FCD Board motion made on:

<u>6/25/2018</u>	<u>Ronald Buentemeier</u>	<u>Chair</u>
(Date)	(Signature)	(Title - Chair etc.)

